THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION Nos.15749,15756, 15802 and15811 of 2006

COMMON ORDER *(Per the Hon'ble Sri Justice Bilal Nazki):*

Heard learned counsel for the parties. At the stage of vacate stay petitions, with the consent of learned counsel for the parties, the writ petitions are being disposed of.

Since the petitioner who filed the writ petitions and the issue involved in all the writ petitions is one and the same, all the writ petitions are being disposed of by this common order.

Counters have been filed. The grievance of the petitioner is that the show cause notices issued to him were a mere formality as instructions have been issued by the Commissioner by virtue of his Circulars dated 11-04-2005 and 23-03-2006.

Learned counsel for the petitioner has brought to our notice another memo issued by the Government of Andhra Pradesh on 17-11-2006. According to this memo, the Circular issued by the Commissioner on 23-03-2006 has been withdrawn. Therefore, the grievance of the petitioner on this account does not survive. We have gone through the Circular issued by the Commissioner, dated 11-04-2005. This Circular is clearly an interference with the quasi-judicial powers of the statutory authorities, as by this Circular the Commissioner wanted the Officers making the assessments to make the assessments in a particular fashion and he wanted them, through this Circular, to tax the purchase of milk from unregistered dealers and

its utilization in the manufacture of by-products by the dairies under Section 6-A of the Andhra Pradesh General Sales Tax Act. These instructions, the Commissioner had given according to him in view of a judgment of the Supreme Court in ***M/s Hotel Balaji vs. State of Andhra Pradesh (88 STC 98)***. We have no doubt in our mind that the quasi-judicial authorities must be left alone to decide the maters, which come before them in accordance with their understanding of law and the precedents of the Courts. Otherwise, the statutory authorities, who are supposed to decide the matters, would become useless and the matters would have to be decided in accordance with the directions given by the higher authorities. As such, we allow all these writ petitions and quash the Circular dated 11-04-2005. The petitioners have been given show cause notices. They should reply the show cause notices, within a period of two weeks, and let the Deputy Commissioner decide the matter afresh after hearing the petitioner, in accordance with law, without considering the import of the Circulars dated 11-04-2005 and 23-03-2006 respectively. No order as to costs.

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(Bilal Nazki,J)

Dated 5th March, 2007

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(Nooty Ramamohana Rao,J)

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